

H. B. 2795

(By Delegates Westfall, B. White and McCuskey)

[Introduced February 17, 2015; referred to the

Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §56-4-72, relating to rules and pleading; and providing that when a party's health condition is at issue in a civil action medical records and releases for medical information may be requested and required without court order; prohibiting unilateral restrictions on the receipt or use of the medical records; and providing right to object to request for records and effect of court order relating to the use of such records.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §56-4-72, to read as follows:

ARTICLE 4. RULES AND PLEADING.

§56-4-72. Production of medical records.

(a) In any civil action in which a party's past, present or future health condition is at issue and information regarding the party's health condition constitutes admissible evidence or is reasonably

1 calculated to lead to the discovery of such evidence, upon the receipt of a timely request for that
2 information the party shall: (1) Produce the medical records and bills for medical services in its
3 possession, custody or control; and (2) execute releases authorizing the release of the medical
4 records and bills for medical services in the possession, custody or control of third parties. The
5 duties imposed by these requirements shall be carried out by the parties without need for an order
6 of the court.

7 (b) In producing medical records and bills for medical services, no party may unilaterally
8 impose restrictions or conditions on a receiving party's maintenance, use or retention of such
9 documents. When medical records and bills for medical services are provided to an insurance
10 company, no restrictions or conditions may be imposed on the insurance company's handling, use,
11 retention or dissemination of them that would contradict, limit or be inconsistent with the terms of
12 any applicable policy of insurance, or the performance of insurance functions, as permitted or
13 authorized under applicable federal and state laws and regulations.

14 (c) Nothing in this section is intended to limit a party's right to object to the production of
15 medical records or bills for medical services on the grounds that such information is not discoverable
16 in the circumstances of a particular civil action: *Provided*, That if the court orders the production
17 of the disputed information over a party's objection, the requirements and limitations set forth herein
18 apply.

NOTE: The purpose of this bill is to provide that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order. The bill prohibits unilateral restrictions on the receipt or use of the medical records. And, the bill provides the right to object to request for records and effect of court order

relating to the use of such records.

§56-4-72 is new; therefore, it has been completely underscored.